



U.S. Department of Justice

Environment and Natural Resources Division

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Re: Ashland Superfund Site

Dear Counsel:

Based on our recent conversations, we understand that there is a dispute between Xcel and the City of Ashland regarding the terms under which Xcel will produce the Allocation Report it commissioned for the Ashland Superfund Site to the City. We also understand that both Xcel and the City consider it important for the City to have the Allocation Report in order to facilitate settlement discussions.

While we cannot dictate how either party handles this situation, we strongly encourage Xcel and the City to reach resolution quickly. The Record of Decision for the Site was issued in September and special notice letters to responsible parties will be issued early in the new year. If a negotiated settlement is to be possible, the parties must be prepared to begin negotiating in earnest. We note that Xcel has already provided the Allocation Report to both the United States and the State of Wisconsin, and believe that a mutually agreeable solution ought to be readily achievable.

In the interest of facilitating a resolution to this dispute, we have attached a draft confidentiality agreement that the United States has used in other pre-filing negotiations. This agreement would cover the Allocation Report, as well as other settlement communications between the parties. Although not currently so drafted, the agreement could include the State of Wisconsin as well, depending on how the State prefers to proceed.

While we hope the attached confidentiality agreement facilitates resolving the instant dispute, we must stress that we will not consider the failure to reach agreement on the production of the Allocation Report to be a basis for delaying settlement negotiations.

Thank you for your attention to this matter. I look forward to working with you further on the resolution of this Site.

Sincerely,

s/Thomas A. Benson

Thomas A. Benson
Trial Attorney

cc: Craig Melodia, EPA
Dan Graff, WDNR